

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:95CR106

UNITED STATES OF AMERICA

VS.

KENDALL MILLER

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ORDER

THIS MATTER is before the Court *sua sponte*.

The Defendant was sentenced by the undersigned on October 24, 1996, to a prison term of 210 months for possession with intent to distribute cocaine base. **Judgment in a Criminal Case, filed December 4, 1996.** On May 18, 2009, the Probation Office filed a Supplement to the Defendant's presentence report pursuant to the Crack Cocaine Guideline Amendment. **Supplement to the Presentence Report, filed May 18, 2009.** The Probation Office advises that not only was the Defendant sentenced as a career offender, there is no change in the guideline range since the notice under 21 U.S.C. § 851 "enhancing the statutory minimum sentence to a mandatory term of life imprisonment was not withdrawn,

restricting the revised guideline range to life[.]” *Id.* at 2. Therefore, the new amendment has no effect on the Defendant’s sentence. *Id.* Because this recommendation is adverse to the Defendant, the Court will require counsel be appointed to represent the Defendant and appointed counsel shall file an appropriate response.

IT IS, THEREFORE, ORDERED that the Federal Defender appoint counsel for the Defendant forthwith.

IT IS FURTHER ORDERED that appointed counsel file response to the Supplement to the Presentence Report within 45 days from entry of this Order.

The Clerk is directed to provide appointed counsel with a copy of this Order.

Signed: May 21, 2009

A handwritten signature in black ink, appearing to read "Lacy H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

